

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹

PROMESA

Title III

No. 17 BK 3283-LTS

Re: ECF No. 14320

(Jointly Administered)

**JOINT STATUS REPORT OF THE COMMONWEALTH OF PUERTO RICO AND
CONSUL-TECH CARIBE, INC.**

To the Honorable United States District Court Judge Laura Taylor Swain:

The Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF”), on behalf the Commonwealth of Puerto Rico (the “Commonwealth” or the “Debtor”),² pursuant to the authority granted to it under Act 2-2017, and Consul-Tech Caribe, Inc (“Consul-Tech” or “Movant”), respectfully submit this joint status report (the “Joint Status Report”) in compliance with the Court’s *Order Denying Consul-Tech Caribe Inc’s Motion for Allowance and Payment of Administrative Expense Claim* [ECF No. 14320] (the “Order”).

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283- LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17- BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19-BK-5233-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations.).

² The Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as the Debtors’ representative pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”), authorized AAFAF to file this Joint Status Report on behalf of the Commonwealth.

I. PROCEDURAL BACKGROUND

1. On May 3, 2017 (the “Petition Date”), the Debtor, by and through the Oversight Board as the Debtor’s representative pursuant to section 315(b) of PROMESA, filed a petition with the United States District Court for the District of Puerto Rico under Title III of PROMESA (the “Title III Case”).

2. On January 13, 2020, Movant filed the *Motion for Allowance and Payment of Administrative Expense Claim* [ECF No. 9845] (the “Administrative Expense Motion”), pursuant to section 503 of title 11 of the United States Bankruptcy Code (the “Bankruptcy Code”), requesting that the Court enter an order directing the Debtor to pay the amount of \$5,120,772.50 as an allowed administrative expense claim (the “Claim”). Movant submits that the amounts allegedly owed by the Debtor are for post-petition services provided by Movant and that, as a result, Movant is entitled to administrative expense priority and immediate payment. See, *Administrative Expense Motion* at p. 21.

3. After several extensions of time requested by the Commonwealth to attempt to gather the necessary information to evaluate and reconcile the Claim, and investigate the allegations made in the Administrative Expense Motion while attempting to continue to negotiate a consensual resolution with Consul-Tech, on August 26, 2020, AAFAF, on behalf of the Commonwealth, filed an objection to the Administrative Expense Motion (the “Objection”) [ECF No. 14114].

4. In the Objection, AAFAF requested the Court to deny the Administrative Expense Motion because of concerns regarding the validity and quantity requested in Movant’s administrative expense claim.” See, *Objection*, at p. 2, 7. Further, AAFAF requested additional time to evaluate the Claim, and argued that the Commonwealth “should not be required to

prematurely litigate the allowance of potential administrative claims, such as Consul-Tech's, at this stage, when its governmental review process is on-going and there is no legal basis to demand immediate payment on any such claims until the effective date of a future plan [of adjustment]."

See, Objection, at p. 12.

5. On September 2, 2020, Consul-Tech filed its reply in response to the Commonwealth's Objection (the "Reply") [ECF No. 14168].

6. On September 16, 2020, the Court held a hearing to consider Consul-Tech's Administrative Expense Motion, the Objection, and the Reply (the "Hearing"). After evaluating the briefs as well as the arguments presented at the Hearing, the Court issued the Order denying the Administrative Expense Motion, without prejudice. [ECF No. 14320].

7. Notwithstanding, the Court noted it would "be mutually beneficial for the parties to further engage in their respective efforts to reconcile Consul-Tech's claims, including by providing responses to any outstanding requests for documentation and by continuing the efforts to resolve the claims consensually." *Id.* To that end, the Court ordered the parties to meet and confer to attempt to resolve the Administrative Expense Motion consensually and to file a joint status report on or before **March 16, 2021 at 5:00pm**. [ECF No. 14320].

II. STATUS REPORT

8. Since the Hearing on September 16, 2020, in compliance with the Order, the Debtor and Movant engaged in settlement discussions in connection with Consul-Tech's Claim. To that end, the Debtor and Movant exchanged information and several settlement proposals to attempt to consensually resolve the Administrative Expense Motion. Through this Joint Status Report, the Debtor and Movant inform that, as of today, they have reached an agreement in principle for the consensual resolution of the Administrative Expense Motion. Nevertheless, the Debtor and

Movant need additional time to finalize the same. Accordingly, the Debtor and Movant propose to submit a further status report to the Court on or before April 16, 2021.

Dated: March 16, 2020

San Juan, Puerto Rico

Respectfully submitted,

/s/ Luis C. Marini- Biaggi

Luis C. Marini-Biaggi

USDC No. 222301

Email: lmarini@mpmlawpr.com

/s/ Carolina Velaz-Rivero

Carolina Velaz-Rivero

USDC No. 300913

Email: cvelaz@mpmlawpr.com

/s/ Iván Garau-González

Iván Garau-González

USDC No. 304305

Email: igarau@mpmlawpr.com

MARINI PIETRANTONI MUÑIZ LLC

250 Ponce de León Ave.

Suite 900

San Juan, Puerto Rico 00918

Tel: (787) 705-2171

Fax: (787) 936-7494

Attorneys for the Puerto Rico Fiscal

Agency and Financial Advisory Authority

REICHARD & ESCALERA, LLC

/s/ Rafael Escalera Rodríguez

Rafael Escalera Rodríguez

USDC-PR No. 122609

escalera@reichardescalera.com

/s/ Sylvia M. Arizmendi

Sylvia M. Arizmendi

USDC-PR No. 210714

arizmendis@reichardescalera.com

/s/ Fernando Van Derdys

Fernando Van Derdys

USDC-PR 201913

fvander@reichardescalera.com

/s/ Alana Vizcarrondo-Santana

Alana Vizcarrondo-Santana

USDC-PR No. 301614

vizcarrondo@reichardescalera.com

255 Ponce de León Avenue

MCS Plaza, 10th Floor

San Juan, PR 00917-1913

Telephone: (787) 777-8888

Attorneys for Consul-Tech Caribe, Inc.